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EXAMINER
CHENCINSKI, SIEGFRIED E

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	**Applicant(s)**
Office Action Summary	09/850,383	DIETRICH, BRENDA LYNN
	Examiner	**Art Unit**	
	SIEGFRIED E. CHENCINSKI	3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>17 February 2009</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16,19 and 20</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16,19 and 20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
  Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 17, 2009 has been entered.

Applicant Admitted Prior Art

2.   **MPEP 2104 C 2nd parag. - AAPA - Applic. Admission due to lack of or inadequate Traversal of Official Notice.**

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

The Official Notice in the Office Action mailed November 14, 2008 was not properly traversed by Applicant and thus has become Applicant Admitted Art (AAPA) as follows:

Claim 15: "an integer program expressed as "Max Summation (i,p) of v(i,p) x(i,p)" where v.(I,p) denotes a monetary value of a bid that bidder p has placed for item i, and, x(i,p) denotes a decision variable having a value of 0 when said bid is not in a winning combination, and 1 when said bid is a winning combination.".

The following limitation in Claim 20: "an integer program expressed by the following: "Max Summation (i,p) of v(i,p) x(i,p)" where v.(I,p) denotes a monetary value of a bid that bidder p has placed for item i, and, x(i,p) denotes a decision variable having a value of 0 when said bid is not in a winning combination, and 1 when said bid is a winning combination.".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   **Claims 1, 2, 6, 7, 12 and 13 are rejected** under 35 U.S.C. 103(a) as being

unpatentable over Ausubel (US Patent 5,905,975) in view of Wellman (US Patent

6,952,682 B1).

Re. Claims 1 & 13, Ausubel discloses a computer implemented method and computer

executable medium for an auction comprising:

- establishing an auction system (Abstract, ll. 1-2; Col. 1, ll. 61-65) which is accessible via a network and comprises a processor which generates a user interface for entering a bid (network – Col. 7, ll. 60-65; processor – Col. 6, l. 21-CPU; Col. 8, ll. 19-20; user interface – Col. 6, l. 27; Col. 7, l. 66 – Col. 8, l. 19);

- receiving a bid for said item and a condition on winning said item which are entered by a bidder by using said user interface (Col. 2, ll. 39-50; Col. 29, ll. 4-14 – a bid implicitly includes at least one condition on winning an item, such as a price at a minimum; the entry by the bidder using the interface is disclosed or suggested by Ausubel and would have been obvious to the ordinary practitioner);

- displaying on said user interface a bid table for indicating that said bid is one of a selected bid and an unselected bid during a course of said auction (col. 12, ll. 7-19 – Ausubel discloses a bid table – col. 16, ll. 56-57; Ausubel displays to the bidding participant that he has won a bid at a specific combination of price and unit volume (a selected bid) and implicitly discloses that bids below this price were unselected (one or more unselected bids) – col. 2, ll. 64-65; col. 3, ll. 59-62. Ausubel suggests display of the selected and unselected results on one table on a user interface but does not explicitly do so. However, Wellman discloses disseminating auction results to all the participants during the operation of an

auction system, to buyers, sellers and to others (Col. 13. ll. 34-41). Disseminating
in a computer automated system is the equivalent to causing to display auction
results on a user interface. Therefore, the ordinary practitioner of the art would
have seen it as obvious to consider displaying on said user interface for
indicating that said bid is one of a selected bid and an unselected bid during a
course of said auction in a bid table format);

- generating an answer to a bid query including said condition on winning said item
  as an integer program and solving said integer program to determine whether
  said bid is a selected bid (Col. 3, ll. 53-57; Col. 6, ll. 23-63 – it is implicit that
  Ausubel uses an integer program to determine whether said bid is a selected bid
  and that the determination algorithm includes the condition(s) on winning an item;
  integer program – Col. 6, ll. 23-30);

- receiving an edit to said condition which is entered by said bidder by using said
  user interface, and updating said bid table to indicate that said bid is one of a
  selected bid and an unselected bid based on said edited condition (Col. 2, ll. 3-
  8); and

- upon terminating said auction, updating said bid table user interface to indicate
  that said bid is one of a winning bid and a non-winning bid based on whether said
  bid is determined to be a selected bid (Col. 3, ll. 60-62; Col. 8, ll. 25-27; Col. 8, l.
  58 – Col. 9, l. 13; Updating a bid table - Col. 12, ll. 7-19).

Non-functional descriptive material: "performs an auction for a set of items including an
item and another item which is different than said item".

Ausubel does not explicitly disclose "formulating a winner determination problem".

As such, Ausubel does use the term "winner(s)" in his teaching (Col. 16, ll. 35-40, 57-
59). Ausubel also discloses transactions which result from the auctions taught by him.
Ausubel's method uses the generic concept embodied by the expression "formulating"
as commonly understood. His method engages in solving a problem, and the goal of the
method is to determine bids which satisfy the auctioneer's criteria for determining the
auction's result(s) (Col. 3, ll. 53-57). Each example in Ausubel details the problem

formulation steps for a particular type of auction (e.g. Example One - Col. 10, l. 36 – Col. 13. l. 5). An ordinary practitioner of the art at the time of Applicant's invention would have understood that both parties to an auction transaction are winners in the commonly understood meaning of any transaction which results from an auction, since both parties have to be satisfied that they are each better off by entering into the transaction versus not entering into the transaction. This makes each one a winner in the common understanding of the matter. On the other hand, at least one of the two parties to a transaction would not participate in the consummation of a transaction if they thought that a proposed transaction would make them a "loser" (i.e. a non winner), which would be the case if they viewed the offered transaction to be not to their benefit as they define the benefit. Thus, no transaction would occur and thus no winner would be possible if there is no transaction. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Ausubel and Wellman with the ordinary practitioner's common understanding about transactions and particularly about transactions resulting from a computer implemented method for an auction, motivated by a desire to offer and implement improved auction methods (Ausubel, Col. 1, ll. 15-16).

Re. Claim 2, Ausubel discloses a method wherein the auction system is elected from a group consisting of an open cry auction, an ascending bid auction, and a descending bid auction (Col. 1, ll. 21-22, 61-65).

Re. Claim 6, Ausubel discloses a method wherein said condition on winning said item is selected from the group consisting of a maximum quantity condition constraint (Col. 2, ll. 39-40; Col. 6, ll. 56-58).

Re. Claim 7, Ausubel discloses a method comprising enabling the auction system so that it is responsive to seller conditions (Ausubel's method has inherent seller conditions without which the auction could not function. These conditions which are the same as constraints are established in the auctioneer's intelligent system for providing auction information to bidders, and then for evaluating bids – Abstract.

Re. Claim 12, Ausubel discloses a network comprising the Internet (), said user interface being displayed on a web page on the Internet (Col. 7, ll. 64-65. A web page is

implied by the worldwide web and would have been obvious to the ordinary practitioner of the art at the time of applicant's invention.)

4.   **Claims 3, 4 and 5 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Ausubel in view of Wellman as applied to claim 1 above, and further in view of McAfee et al. (US Patent 6,718,312 B1, hereafter McAfee).

Re. Claim 3, neither Ausubel nor Wellman explicitly disclose or suggest a method wherein the condition on winning comprises a plurality of conditions which characterize combinations of bids from the bidder for desired items within the auction system. Ausubel teaches and/or suggests the use of constraints (= conditions) and the combination of items (constraints) specified in their bids by bid participants in an auction process (Col. 2, ll. 29-50). Ausubel is not explicit regarding a plurality of items in his bidding constraints. However, McAfee discloses a method wherein the constraints characterize combinations of bids from the participant for the desired items within the auction system (Abstract, l. 8; Col. 1, l. 9; Col. 5, ll. 19-20: Col. 9, ll. 66-67). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel and Wellman with that of McAfee in order to be responsive to constraints that characterize combinations of items, motivated by the desire to offer combinatorial auction methods and systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

Re. Claim 4, neither Ausubel nor Wellman explicitly disclose or suggest a method enabling the auction system such that it is responsive to said budget condition (=constraint). However, McAfee discloses a method which comprises enabling the auction system so that it is responsive to a budget constraint (Col. 6, ll. 1-3, 58-62. McAfee's method teaches a method responsive to a budget constraint). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of McAfee to be responsive to budget constraints, motivated by the desire to offer combinatorial auction methods and systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

Re. Claim 5, neither Ausubel nor Wellman explicitly disclose or suggest a method
wherein the budget condition (=constraint) is specified by the bidder. However, McAfee
suggests a method wherein the budget constraint is specified by or on behalf of the
bidder, which can be either the seller or buyer/bidder, or both. McAfee suggests that
both parties are likely budget constrained (Col. 6, ll. 1-3, 58-62. McAfee's method
teaches a method responsive to a budget constraint, which in turn would have made it
obvious to an ordinary practitioner at the time of Applicant's invention to consider
various ways of including budget constraints into the auction process from both seller
and buyer/bidder points of view). Therefore, it would have been obvious to an ordinary
practitioner at the time of Applicant's invention to have combined the art of Ausubel and
Wellman with that of McAfee to be responsive to budget conditions specified by or on
behalf of a bidder, motivated by the desire to offer combinatorial auction methods and
systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

5.   **Claims 8-11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over
Ausubel in view of Wellman as applied to claim 1 above, and further in view of
Macready et al. (US PreGrant Publication 2002/0016759, hereafter Macready).
Re. Claim 8, neither Ausubel nor Wellman explicitly disclose or suggest a method
wherein the seller conditions (=constraints) specify a minimum value for a combination
of items. However, Macready discloses a method wherein the seller constraints specify
a wide range of parameter possibilities (Page 6, [0077]; [0108]-ll. 1-2; [0110]). It would
have been obvious to the ordinary practitioner at the time of applicant's invention that
these possibilities suggest the imposition of a constraint specifying a minimum value.
Such a value would be based on the participant's assessment that he would be worse
off to engage in a transaction below such a minimum value. Hence it would have been
obvious to an ordinary practitioner at the time of Applicant's invention to have combined
the art of Ausubel and Wellman with that of Macready to be responsive to seller
conditions such as a minimum value for a combination of items, motivated by the desire
to offer flexibility to all trading partners to locate win-win opportunities for all parties if
they exist (Macready, page 2, [0012]-ll. 7-9).

Re. Claim 9, neither Ausubel nor Wellman explicitly disclose or suggest a method wherein the seller conditions (=constraints) specify a minimum value for a combination of a minimum number of items to be sold. See the rejection of claim 8. The ordinary practitioner would have seen it as obvious that minimum values could easily be involved in auctions which involve multiple items and in which the seller(s)'s constraints permit or perhaps even require bidding on a combination of items. See the rejection of claim 10 for an illustration of such circumstances. The selling participant would may have an interest in establishing a minimum value in a combination of items in the case of a car parts auction. It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel and Wellman with that of Macready to be responsive to seller conditions such as a minimum value for a combination of a minimum number of items to be sold, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-ll. 7-9).

Re. Claim 10, neither Ausubel nor Wellman explicitly disclose or suggest a method wherein the seller conditions (=constraints) specify a minimum value for a combination of items correlated to a precedence relationship. However, Ausubel teaches conditions submitted by buyers as a part of their bids. Further, Macready teaches that the auction process cannot proceed until bidder conditions are fulfilled ([00340]-ll. 3-4). Also, Applicant defines precedence constraints as available to both sellers and buyers (page 6, ll. 4-18), simply as a previously established bid or offer, or a previously established condition, which has to be met if a newly submitted condition, bid or offer is to be accepted. An ordinary practitioner would have been familiar with such conditional offers and would have known that the conditional offers can be based on an unlimited number of factors, including previously submitted terms, conditions, offers or bids. Macready also discloses a method of enabling the auction system so that seller constraints specify a wide range of parameter possibilities. Macready further teaches combinations in offers and combinations of values ([0344] and in claim 64). An ordinary practitioner would have seen that such combinations of values could easily involve bids for multiple items conditioned in whatever manner suits the bidder if two or more items are offered by a

seller or even by multiple sellers who are participating in the same auction. For example, in an auction of used car parts (an industry which has become quite sophisticated in the era of personal computers) it would be reasonable for a bidder to establish a bid for a front grill assembly for a certain year/model car conditioned on the preceding bid for the body of the same make/model car which he has determined has a smashed grill. It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel and Wellman with that of Macready and the knowledge of the ordinary practitioner to be responsive to seller conditions uch as a minimum value for a combination of items correlated to a precedence relationship, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-ll. 7-9).

Re. Claim 11, neither Ausubel nor Wellman explicitly disclose or suggest a linear condition (=constraint). However Macready discloses a linear constraint (p. 3, [0036]-l. 8) in a transaction negotiation environment. Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel and Wellman with that of Macready and well known practices to be responsive to seller conditions such as a minimum value for a combination of items correlated to a precedence relationship, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-ll. 7-9).

6.   Claims 14, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel in view of Wellman, McAfee and Macready.

Re. Claim 14, Ausubel discloses or suggests a computer implemented method for facilitating an auction comprising:

- establishing an auction system which is accessible via a network, performs an auction for a set of items including a first item and a second item which is different than said first item, and comprises a processor which generates a user interface for entering a bid (See the rejection of claim 1);

- receiving a proposal comprising a bid on said first item and a condition on winning said first item which are entered by a bidder by using said user interface system (See the rejection of claim 1);
- displaying on said user interface a bid table for indicating that said proposal is one of a selected proposal and an unselected proposal during a course of said auction (See the rejection of claim 1);
- formulating a winner determination problem including said condition on winning said first item as an integer program, and solving said integer program to determine whether said and updating a user interface based on whether said proposal is determined to be a selected proposal (=bid) (See the rejection of claim 1);
- receiving an edit to said condition which is entered by said bidder by using said user interface, and updating said bid table to indicate that said proposal is one of a selected proposal and an unselected proposal based on said edited condition (See the rejection of claim 1); and
- upon terminating said auction, updating said bid table to indicate that said proposal is one of a winning proposal and a non-winning proposal (See the rejection of claim 1).

Wellman's disclosure is stated in the rejection of claim 1 above.

Ausubel does not explicitly disclose conditions (=constraints) which characterize combinations of items desired by the participant within an auction system. However, McAfee discloses a method wherein the constraints characterize combinations of bids from the participant for the desired items within the auction system (Abstract, l. 8; Col. 1, l. 9; Col. 5, ll. 19-20: Col. 9, ll. 66-67). It would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of McAfee in order to be responsive to constraints that characterize combinations of items, motivated by the desire to offer combinatorial auction methods and systems that eliminate associated bidding problems (McAfee, Col. 9, ll. 59-63).

Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of Wellman, Macafee and Macready to develop computer implemented method for facilitating an auction, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-ll. 7-9).

Re. Claim 16, Ausubel discloses a method specifying combinatorial bids by interpreting the condition (=constraint) on winning. Applicant defines combinatorial bidding as a "computer implemented system for a combinatorial auction. One or more bidders participate in the auction. Two or more items are being auctioned." (p. 14, ll. 13-14). It would have been obvious to an ordinary practitioner at the time of Applicant's invention that Ausubel teaches such an auction, since Ausubel teaches or suggests two or more bidders and two or more items (See the rejection of claim 1).

Re. Claim 19, Ausubel discloses a method wherein the condition (= constraint) on winning is represented by linear relationships between indicator variables on bids from the participant (See the rejection of claim 6).

7.   **Claims 15 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Ausubel in view of Wellman, McAfee and Macready as applied to claim 14 above, and further in view of AAPA.

Re. Claim 15, none of Ausubel, Wellman, Macafee or Macready explicitly disclose an integer program expressed as

"Max Summation (i,p) of v(i,p) x(i,p)"

where v.(I,p) denotes a monetary value of a bid that bidder p has placed for item i, and, x(i,p) denotes a decision variable having a value of 0 when said bid is not in a winning combination, and 1 when said bid is a winning combination.

However, AAPA discloses that this mathematical expression was well known to an ordinary practitioner at the time of Applicant's invention. Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of Wellman, Macafee, Macready and AAPA to develop computer implemented method for facilitating an auction, motivated by the desire to

offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-ll. 7-9).

8.   **Claim 20 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Ausubel in view of Wellman, McAfee, Macready and AAPA.

Re. Claim 20, the disclosures of Ausubel, MaAfee and Macready are cited above in the rejections of claims 1-16 and 19 regarding methods of conducting an auction in an auction system in which plural items are offered for auction by a seller, and plural bidders place bids on said plural items, said method comprising:

- establishing an auction system which is accessible via the Internet, performs an auction for a set of items including an item and another item which is different than said item, and comprises a processor which generates a user interface for entering a bid in said auction (see the rejection of claim 1);
- receiving a bid for said item and a condition on winning said item which are entered by a bidder by using said user interface (see the rejection of claim 1);
- displaying on said user interface a bid table for indicating that said bid is one of a selected bid and an unselected bid during a course of said auction (see the rejection of claim 1);
- after said bidder has input said bid including said condition on winning formulating a winner determination problem including said condition on winning and a seller condition as an integer program, and solving said integer program to determine whether said bid is a selected bid (see the rejection of claim 1);
- receiving an edit to said condition which is entered by said bidder by using said user interface, and updating said bid table to indicate that said bid is one of a selected bid and an unselected bid based on said edited condition (see the rejection of claim 1); and
- upon terminating said auction, updating said bid table to indicate that said bid is one of a winning bid and a non-winning bid (see the rejection of claim 1);

Ausubel discloses:

- establishing an auction system which is accessible via the Internet and comprises a processor which generates a user interface for entering a bid (See the rejection of claim 1; use of web pages);

- entering in said auction system an offer of a item for bid, said offer including a seller constraint that describes said item (See the rejection of claim 7);.

- entering in said auction system a bid for said item, said bid being entered by a bidder by using said user interface to identify said item, a bid value for said item and a constraint for a set of items including said item (See the rejection of claim 1; re. "a set of items"-see the rejection of claim 14-combination of items.); and

- after said bidder has input said bid including a bidder constraint, formulating a winner determination problem including said bidder constraint and seller constraint as an integer program, and solving said integer program to determine whether said bid is a selected bid (see the rejection of claim 1),

Ausubel does not explicitly disclose use of a web page in an interface. However, MacAfee discloses use of web pages in an auction context (Col. 11, ll. 37-38). Wellman's disclosure is stated in the rejection of claim 1 above.

Ausubel does not explicitly disclose the following detailed combinations involved in an auction method:

wherein said integer program is expressed by the following:

Max

Z Vi, p Xi, p

i,p

where v;, p denotes a monetary value of a bid that bidder p has placed for item i, and,

x;, p

denotes a decision variable having a value of 0 when said bid is not in a winning combination, and 1 when said bid is a winning combination,

wherein said user interface displays a space for a bidder to identify plural bidder

conditions (=constraints) comprising a budget condition that specifies a total amount that a bidder is willing to pay for an item, a precedence condition that indicates that bidder will win an item of plural items only if said bidder also wins another item of said plural items, an alternate precedence condition which indicates that a bidder will win an item only if said bidder wins all of the items in a precedence set, a quantity condition which specifies one of a maximum quantity and a minimum quantity of items that said bidder will win, and a general linear condition constraint which indicates a coefficient for said plural items and an upper bound and lower bound on a sum of coefficients for said plural items, and wherein said seller condition comprises one of a condition indicating a minimum total amount that seller will accept for plural items, a condition indicating a minimum quantity of items in said plural items to be sold, and a precedence condition indicating that an item will be sold only if another item is sold.

However, Ausubel in combination with MacAfee and Macready disclose the following:

- wherein said user interface displays a space for a bidder to identify plural bidder conditions (=constraints) (Ausubel-Col. 2, ll. 39-41) comprising a budget constraint that specifies a total amount that a bidder is willing to pay for an item (MacAfee-see claims 4 and 5), a precedence constraint that indicates that bidder will win an item of plural items only if said bidder also wins another item of said plural items (Ausubel suggests this in combinatorial bidding – see claim 3, plural of bidder constraints), an alternate precedence constraint which indicates that a bidder will win an item only if said bidder wins all of the items in a precedence set (this would have been obvious to an ordinary practitioner at the time of Applicant's invention because it is implicit in the various combinations concept of a plurality of constraints), a quantity constraint which specifies one of a maximum quantity and a minimum quantity of items that said bidder will win (See the rejection of claim 6, 8 and 9), and a general linear constraint which indicates a coefficient for said plural items and an upper bound and lower bound on a sum of coefficients for said plural items (see the rejection of claim 11 and claims 6, 8 and 9), and

- wherein said seller constraint comprises one of a constraint indicating a minimum total amount that seller will accept for plural items, a constraint indicating a minimum quantity of items in said plural items to be sold, and a precedence constraint indicating that an item will be sold only if another item is sold (this is implicit in seller constraints – see claim 7, and the rejections of claims 6, 8 and 9 and the prior art of minimum and maximum constraints).

Ausubel does not explicitly disclose an integer program expressed by the following: "Max Summation (i,p) of v(i,p) x(i,p)" where v.(I,p) denotes a monetary value of a bid that bidder p has placed for item i, and, x(i,p) denotes a decision variable having a value of 0 when said bid is not in a winning combination, and 1 when said bid is a winning combination. However, AAPA discloses that this mathematical expression was well known to an ordinary practitioner at the time of Applicant's invention.

Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the art of Ausubel with that of MacAfee, Macready and AAPA to develop computer implemented method for facilitating an auction, motivated by the desire to offer flexibility to all trading partners to locate win-win opportunities for all parties if they exist (Macready, page 2, [0012]-ll. 7-9).

Response to Arguments

9.   Applicant's arguments with respect to claims 1-16, 19 and 20 received on February 17, 2009 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Charles Kyle, can be reached on (571) 272-6746.

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Any response to this action should be mailed to:

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or faxed to:

(571)273-8300   [Official communications; including After Final communications
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(571) 273-6792   [Informal/Draft communications, labeled "PROPOSED" or
                       "DRAFT"]

Hand delivered responses should be brought to the address found on the above
USPTO web site in Alexandria, VA.

SEC
March 20, 2009

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3695